FINAL REPORT
OF THE
SELECT JOINT COMMISSION ON
MEDICAID OVERSIGHT

Indiana Legislative Services Agency
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Indianapolis, Indiana 46204-2789

November 2011

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2011

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Select Joint Commission on Medicaid Oversight

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A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Commission can be accessed from the General Assembly Homepage at http://www.in.gov/legislative/.

FINAL REPORT

Select Joint Commission on Medicaid Oversight

I. STATUTORY AND LEGISLATIVE COUNCIL DIRECTIVES

The Indiana General Assembly enacted legislation (IC 2-5-26) directing the Commission to do the following:

> (1) Determine whether the contractor for the Office of Medicaid Policy and Planning (OMPP) under IC 12-15-30 that has responsibility for processing provider claims for payment under the Medicaid program has properly performed the terms of the contractor's contract with the state.
>
> (2) Determine whether a managed care organization that has contracted with the OMPP to provide Medicaid services has properly performed the terms of the managed care organization's contract with the state.
>
> (3) Study and propose legislative and administrative procedures that could help reduce the amount of time needed to process Medicaid claims and eliminate reimbursement backlogs, delays, and errors.
>
> (4) Oversee the implementation of a case-mix reimbursement system developed by the OMPP and designed for Indiana Medicaid-certified nursing facilities.
>
> (5) Study and investigate any other matter related to Medicaid.
>
> (6) Study and investigate all matters related to the implementation of the Children's Health Insurance Program established by IC 12-17.6.

In addition, Legislative Council resolution LCR 11-01 provides that the Commission may make an advisory recommendation to the OMPP concerning the proposed family planning services State Plan amendment. (SEA 461-2011)

Further, IC 12-15-45 (SEC. 144, HEA 1001-2011) concerning Medicaid Developmental Disability Home and Community-Based Services Waivers provides that before July1, 2012, the Division of Rehabilitative Services shall report orally and in writing to the Commission for review of a plan to reduce the aggregate and per capita cost of the waiver by implementing certain changes to the waiver.

Finally, SECTION 32 of SEA 88-2011 requires the Family and Social Services Administration (FSSA) to prepare and present to the Commission before November 1, 2011, a report on the availability and use of mental health drugs.

II. INTRODUCTION AND REASONS FOR STUDY

In FY 2011, the Indiana Medicaid program had total expenditures of approximately $6.5 billion dollars. At the end of FY 2011, the program enrolled approximately 1,110,000 Indiana citizens who were eligible to receive services. Due to the size of this program in the state budget and the number of recipients, the Select Joint Commission on Medicaid Oversight was established as a permanent commission to provide legislative branch oversight of this state function.

III. SUMMARY OF WORK PROGRAM

The Commission met three times during the 2011 interim: August 23, 2011; September 14, 2011; and October 18, 2011. All Commission meetings were held at the State House in Indianapolis.

The first meeting was held August 23, 2011. The Commission heard an update on the implementation of the hybrid eligibility-determination system from Secretary Michael Gargano of the Family and Social Services Administration. Ms. Seema Verma, FSSA Health Care Reform Lead, gave an overview and update of the state's preparation and development of a health insurance exchange for federal healthcare reform. Ms. Pat Casanova, Director of OMPP, presented an overview of the Medicaid State Plan amendment for family planning services and reviewed cost savings initiatives implemented or planned for the Indiana Medicaid program. The Commission heard testimony from advocates for providers affected by the cost-savings initiatives. Ms. Julia Holloway, Director of the Division of Developmental Disabilities and Rehabilitative Services (DDRS), updated the Commission on the process and planning for revisions to the home and community-based services waivers for the developmentally disabled. The Commission also heard testimony on the home and community-based services waiver issue. Medicaid claims processing contractors presented performance reports to the Commission.

The second meeting was held September 14, 2011. The Commission heard a presentation by Ms. Kristina Moorhead, Deputy Director of OMPP regarding Medicaid program integrity program components and fraud prevention activities. Ms. Pat Casanova returned to give more detailed information on cost-savings initiatives undertaken by OMPP. She also presented additional Healthy Indiana Plan (HIP) enrollment statistics as requested by Commission members at the first meeting. The Commission also heard testimony from providers of targeted case management services that have been eliminated by OMPP as a cost-saving initiative.

The third meeting was held October 18, 2011. Ms. Sarah Jagger, Director of Policy, OMPP, gave two presentations: the first on access to mental health drugs, the second on Medicaid spend-down policy. Medicaid claims processing contractors returned to address Commission concerns regarding the higher rate of denials for behavioral health claims. Mr. Paul Bowling, CFO of FSSA and Mr. Tim Kennedy representing the Indiana Hospital Association, reported on the process and development of a Medicaid State

Plan Amendment to implement a hospital assessment fee as authorized by the budget bill (HEA 1001-2011).

IV. SUMMARY OF TESTIMONY

Update on the Implementation of the Hybrid Eligibility-Determination System.
Secretary Gargano reported that pending Federal Nutrition Service (FNS) approval, Regions 9 and 10 have been scheduled for conversion to the hybrid eligibility system for late October 2011. Region 5, Marion County is scheduled for conversion in late February 2012, pending FNS approval. The Secretary reported statewide enrollment statistics, new applications, regional backlogs, and other performance statistics. The statistics demonstrated improved performance in the regions that had been converted to the hybrid system. Regions 9, 10, and 5 are the remaining regions in the state that were never converted to the privatized eligibility system.

Overview of Insurance Exchange Development Activities
Ms. Seema Verma reviewed the progress made towards requirements of the Patient Protection and Affordable Care Act (PPACA). She detailed grants that the administration has applied for and reviewed the current status of the various legal challenges to the federal health care reform statute. She also reviewed the state's progress with regard to establishing an insurance exchange while emphasizing that the actions taken will not obligate the state to run an exchange if it is determined not to do so in the future. Ms. Verma reviewed the state insurance markets and how the market is projected to change by 2019. She reviewed exchange design options and the results of a December 2010 Affordable Care Act Questionnaire. Finally she discussed the issue of how the operations of the exchange could be financed and what products should be offered on the exchange.

Healthy Indiana Plan (HIP)
Pat Casanova, Director of OMPP, reported that the standing of the HIP program is still unknown with regard to the state's ability to use HIP as the vehicle for the Medicaid expansion population under federal health care reform. She stated that the program could potentially continue as a waiver or as a State Plan amendment. She reported that the HIP program had been opened for the enrollment of 8,000 non-caretaker adults and described the process for taking applicants on the waiting list.

Developmental Disability Home and Community-Based Services Waiver Revision
Section 144 of HEA 1001- 2011 requires the Division of Rehabilitative Services to report orally and in writing to the Commission for review of a plan to reduce the aggregate and per capita cost of the waiver by implementing certain changes to the waiver. Ms. Julia Holloway discussed the work group that was established to work on the waiver budget-neutrality issue and described the process the division will use to address the aggregate and per capita costs of services provided for the new waiver application. The work group's draft report is due to the division by December 31, 2011, and a written report is required to be provided to the Commission by July 1, 2012. Mr.

John Dickerson of the ARC of Indiana testified that the ARC is committed to work with the division to find ways to provide services to as many individuals as possible. He discussed activities that the division has undertaken to bring equity to the level of services provided to each individual. Ms. Rylin Rodgers of Family Voices Indiana offered testimony relating to the importance of Medicaid services to families with children with disabilities and the need to provide an adequate level of services to allow children to stay in their own homes. Ms Sharon Overly, the parent of a disabled daughter, addressed the need to cut waste that exists within the system and to provide quality services that allow the disabled to remain in their homes.

Provider Rate Reductions

Pat Casanova, Director of OMPP, described cost containment actions undertaken by OMPP to achieve savings necessary to address an estimated $220 M shortfall in state Medicaid appropriations for FY 2012. Representatives of the Indiana Optometric Association, the Indiana Podiatric Medical Association, the Indiana State Chiropractic Association, the Indiana Retail Council, the Indiana Pharmacy Alliance, the Indiana Perinatal Network, and the Indiana AARP commented on proposed cuts that affected the individual provider groups.

Family Planning Services State Plan Amendment

Ms. Pat Casanova reported on the time frame of the process to prepare and submit to the Centers for Medicare and Medicaid Services (CMS) a State Plan amendment to add family planning services to Indiana Medicaid. She stated that the State Plan amendment is to be submitted to CMS by January 1, 2012, with the provision of open-ended benefits to eligible men and women to begin on October 1, 2012. She clarified that the program will become obsolete under the federal healthcare reform on January 1, 2014. Ms. Casanova reported that OMPP will need approximately $1.1 M to make system changes necessary to implement the new service and that no savings due to the new services could be anticipated during the first year.

Claims Processing Contractor's Activity Reports

Representatives of Medicaid managed care contractors and the fee-for-service contractor presented claims processing performance statistics and information on their provider networks. Because Commission members expressed concern regarding the higher rate of denials for behavioral health care claims, the contractors returned to specifically address reasons for the higher rates of behavioral health care claims denials. These included the following: (1) that with lower total numbers of claims, behavioral health denials would generate higher-percentage calculations than those seen for medical-type claims; (2) behavioral health providers tend to be smaller provider entities and tend to submit higher percentages of paper claims; and (3) behavioral health providers have less office staff expertise with Medicaid claims.

Medicaid Program integrity and Fraud Prevention

Ms. Kristina Moorhead presented information regarding Medicaid program integrity activities aimed at detecting improper payments to providers and identifying member misrepresentation and overutilization. She reviewed the recovery of improper payments and the new CMS requirement that states have a Medicaid Recovery Audit Contractor

(RAC). These contractors audit payments made to healthcare providers to identify Medicaid payments that may have been improperly made. The contractor is responsible for recovering overpayments or correcting payment shortfalls. Ms. Moorhead also discussed the Right Choices Program that identifies Medicaid members that use an inordinate level of services and places them in a program that restricts their access to certain providers. She emphasized that the program is intended to assist members to utilize resources better - they are not prevented from receiving necessary services.

Access to Mental Health Drugs

In accordance with the requirement in Sec. 32, SEA 88-2011, Ms. Sarah Jagger reported on activities the OMPP had undertaken to ensure appropriate access to mental health drugs. Commission discussion focused on generic substitution procedures and the implementation of prior authorization for certain drugs prescribed as brand medically necessary.

Hospital Assessment Fee

Mr. Paul Bowling, CFO of the Family and Social Services Administration, and Mr. Tim Kennedy for the Indiana Hospital Association (IHA) described the process and progress for the submission of a Medicaid State Plan amendment to implement a hospital assessment fee for two years as authorized by the budget bill. They reported that a model for the fee had been developed by the IHA and that the State Plan amendment was submitted to the federal Centers for Medicare and Medicaid Services (CMS). Mr. Kennedy stressed that details relating to the fee will depend on CMS actions.

Medicaid Spend-Down Issues

In response to constituent concerns, Ms. Jagger reviewed the Medicaid spend-down program and discussed issues involved in administering the spend-down. Ms. Jagger explained that it is unlikely that the OMPP would address the spend-down program in the near future since provisions in SEA 461-2011 would allow the FSSA to transition the state from 209(b) status to 1634 status - effectively discontinuing the spend-down requirement with the implementation of the federal health care reform Medicaid expansions on January 1, 2014. The Commission heard testimony from provider groups explaining their difficulty collecting spend-down amounts owed to them because they are required to provide services in advance of payment.

To read a more complete account of this testimony and other matters considered by the Commission, the minutes of the Commission's three meetings can be found on the Commission's website (http://www.in.gov/legislative/interim/committee/jcmo.html), and copies may be obtained by contacting the Legislative Information Center of the Legislative Services Agency.

V. COMMISSION FINDINGS AND RECOMMENDATIONS

The Commission considered the following legislative recommendations.

PD 3225 - Cash Assistance Point of Service and Drug Reports

PD 3225 would add automated teller machines and point-of-service sales at adult entertainment establishments to the list of venues that may not be used to receive cash assistance benefits under the Title IV-A program. PD 3225 would also reduce the required frequency of a report concerning the preferred drug list from two times each year to once annually.

Upon proper motion, the Commission voted 9 to1 to recommend PD 3225 for consideration by the Indiana General Assembly.

PD 3260 - Voiding Certain Medicaid Rules

PD 3260 would void emergency Medicaid rules that reduce the reimbursement of certain providers for the current budget biennium as well as the expanded emergency rule-making authority that was authorized in HEA 1001-2011.

Upon proper motion, the Commission voted 4 to 6; defeating the motion to recommend PD3260.

Final Report

Upon proper motion, the Commission voted 7 to 0 to approve the draft final report with the understanding that staff would include information provided at the October 18, 2011, Commission meeting.

W I T N E S S L I S T

Rep. Ron Bacon, CEO, 3-M Medical Home Healthcare
Mr. John Barth, MHS
Mr. Paul Bowling, CFO, FSSA
Ms. Pat Casanova, Director, OMPP
Mr. Paul Chase, IN AARP
Mr. Bill Cowan, Indiana Pharmacy Alliance
Mr. John Dickerson, The ARC of Indiana
Mr. Michael Gargano, Secretary, FSSA
Ms. Julia Holloway, Director, DDRS
Ms. Susie Howard, Legislative Director, FSSA
Mr. Larry Humbert, Indiana Perinatal Network
Ms. Trish Hunter, HP/EDS
Ms. Tina Hurt, Anthem
Ms. Sarah Jagger, Director of Policy, OMPP
Mr. Tim Kennedy, Indiana Hospital Association
Ms. Pat McGuffy, Indiana State Chiropractic Association
Mr. Grant Monahan, Indiana Retail Council
Ms. Kristina Moorhead, Deputy Director, OMPP
Ms. Sharon Overley
Mr. Ed Popchef, Indiana Dental Association
Ms. Rylin Rodgers, Family Voices Indiana
Ms. Jackie Shearer, MHS
Ms. Glenna Shelby, Indiana Podiatric Medical Association
Ms. Seema Verma, Health Care Reform Lead
Ms. Katherine Wentworth, MD Wise
Ms. Minga Williams, Anthem
Mr. Jim Zieba, Indiana Optometric Association